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Supreme Court of the United States

OCTOBER TERM, 1928

No. 278

THE CUDAHY PACKING COMPANY, A CORPORATION, APPELLANT,

vs.

JAY GRANT HINKLE, SECRETARY OF STATE, AND JOHN H. DUNBAR, ATTORNEY GENERAL OF THE STATE OF WASHINGTON, APPELLEES.

ON APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE WESTERN DISTRICT OF WASHINGTON.

Motion To Advance on Docket

JOHN H. DUNBAR,
Attorney General.

L. B. DONLEY,
Assistant Attorney General
Counsel for Appellees.

E. B. PALMER,
THOS. M. ASKREN,
S. W. BRETHORST,
THOS. CREIGH,
J. HARRY COVINGTON,

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Come now the appeallant and appellees in the above-entitled cause and move that this case be advanced for early hearing, and in support of this motion make the following brief statement of the matter involved and the reasons relied upon for the advancement.

This case comes on appeal from the District Court, with three judges sitting, which denied an injunction restraining certain officials of the State of Washington from enforcing against appellant, a Maine corporation engaged in interstate and intrastate business in Washington and elsewhere, certain provisions of the statutes of the State of Washington relating to the issuance of permits to foreign corporations carrying on business in the State of Washington, and exacting an annual tax therefrom; which statutes in question appellant contends violate Article I, Section 8, Paragraph 4, of the Constitution of the United States, and the due process clause and equal protection clauses of the Fourteenth Amendment thereof. The filing fees required to be paid by a foreign corporation under these statutes before it can do business in the State of Washington, as well as the annual license fees, are based upon the entire authorized capital stock of the foreign corporation, regardless of whether the property represented by the capital stock is employed within or without the State, and are graduated according to the amount of authorized capital stock, regardless of the amount issued.

The Legislature of the State of Washington will convene for its next session in January, 1929, and as it only meets biennially, it will not meet again thereafter until January, 1931. The statutes of the State which

are herein being attacked produce large revenues for the State of Washington, and should these statutes be held unconstitutional by this Honorable Court, then the Legislature at its next session in 1929, which session lasts for a period of sixty days, could enact necessary amendments and the State would not be deprived of all revenues from foreign corporations for a period of two years.

Respectfully submitted,

JOHN H. DUNBAR,
Attorney General.

L. B. DONLEY,
Assistant Attorney General
Counsel for Appellees.

E. B. PALMER,
THOS. M. ASKREN,
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